

the 8 day of October 2003  
TESTE: LILLIE M. HART, CLERK 3:50pm  
By [Signature] D.C.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF CHESAPEAKE

COMMONWEALTH OF VIRGINIA,

v.

LEE BOYD MALVO,

Defendant.

Case No. 102888

The Hon. Jane Marum Roush

**DEFENDANT'S NOTICE AND MOTION TO DISMISS INDICTMENT DUE TO  
UNCONSTITUTIONALITY OF VA. CODE § 18.2-31(13)**

PLEASE TAKE NOTICE THAT on Wednesday, October 22, 2003 at 10:00 a.m., or as soon thereafter as counsel may be heard, Defendant Lee Boyd Malvo, by and through counsel, shall move this Honorable Court to dismiss the indictment on the grounds that Va. Code §§ 18.2-31(13) is unconstitutional. In support of his Motion, Defendant respectfully refers the court to his Memorandum, filed herewith.

Respectfully Submitted,

LEE BOYD MALVO  
By Counsel

MARTIN. ARIF. PETROVICH & WALSH

By: \_\_\_\_\_  
Michael S. Arif, Esquire; VSB #20999  
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By: \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

We/I hereby certify that a true copy of the foregoing Motion/Memorandum was hand-delivered to:

Robert F. Horan, Jr., Esquire  
Commonwealth's Attorney  
4110 Chain Bridge Road  
Room 123  
Fairfax, VA 22030

and the original was forwarded for filing to:

Hon. John T. Frey  
Clerk  
Fairfax County Circuit Court  
Fairfax County Judicial Center  
4110 Chain Bridge Road  
Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush  
Judge  
Fairfax County Circuit Court  
Fairfax County Judicial Center  
4110 Chain Bridge Road  
Fairfax, VA 22030-4009

this 8<sup>th</sup> day of October, 2003.

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Co-Counsel